

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1327

**Introduced by Assembly Members Gorell and Bradford
(Principal coauthor: Assembly Member Muratsuchi)
(Coauthor: Assembly Member Fox)**

February 22, 2013

An act to add Title 14 (commencing with Section 14350) to Part 4 of the Penal Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1327, as amended, Gorell. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

This bill would generally prohibit public agencies from using unmanned aircraft systems, or contracting for the use of unmanned aircraft systems, as defined, with certain exceptions applicable to law enforcement agencies and in certain other cases, *and would generally require a warrant for the use of an unmanned aircraft system by law enforcement to block or interfere with electronic communications, as*

specified, with certain exceptions. The bill would require the acquisition of an unmanned aircraft system, or a contract for the use of an unmanned aircraft system, for authorized purposes by a local public agency to be subject to the specific approval of the applicable local public agency's legislative body. The bill would require a local legislative body, in approving the acquisition or purchase, to also adopt policies governing the use and deployment of the unmanned aircraft system. The bill would require a state agency that uses an unmanned aircraft system, or contracts for the use of an unmanned aircraft system, to provide, no later than January 1 of each year, an annual report to the Governor that includes, but is not limited to, the agency's acquisitions, purchases, rentals, or leases of unmanned aircraft systems.

Because this bill would expand the duties of local law enforcement officials and local public officials and the scope of existing investigatory activities, the bill would impose a state-mandated local program.

The bill would authorize the Department of Forestry and Fire Protection (CAL-FIRE) to use unmanned aircraft systems, or contract for the use of unmanned aircraft systems, for fire-related activities. The bill would require reasonable public notice to be provided by public agencies intending to deploy unmanned aircraft systems, as specified. The bill would require images, footage, or data obtained through the use of an unmanned aircraft system under these provisions to be permanently destroyed within 10 days, ~~except to the extent required as evidence of a crime, part of an ongoing investigation of a crime, or for training purposes, as specified, or pursuant to an order of a court.~~ The bill would prohibit a person or entity, including a public agency subject to these provisions, or a person or entity under contract to a public agency, for the purpose of that contract, from equipping or arming an unmanned aircraft system with a weapon or other device that may be carried by or launched from an unmanned aircraft system and that may cause bodily injury or death, or damage to, or the destruction of, real or personal property.

~~This bill would also prohibit a person or entity, other than a public agency subject to the above provisions or a person or entity under contract to a public agency, for the purpose of that contract, from using an unmanned aircraft system, or contracting for the use of an unmanned aircraft system, for the purpose of surveillance of another person without that person's consent. The bill would provide that a person who is subject to surveillance without consent may seek and obtain an injunction prohibiting the use of images, footage, or data related to the~~

~~person that was obtained through the surveillance, and would provide for the awarding of liquidated damages of five thousand dollars (\$5,000) for each day of surveillance and any actual damages in excess of that amount. The~~

The bill would require that make the restrictions that apply that are applicable to the use of an unmanned aircraft system by a law enforcement agency also apply applicable to any person, entity, or public agency that uses, operates, or contracts for an unmanned aircraft system.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Title 14 (commencing with Section 14350) is
2 added to Part 4 of the Penal Code, to read:

3
4 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

5
6 14350. (a) A public agency shall not use an unmanned aircraft
7 system, or contract for the use of an unmanned aircraft system,
8 except as provided in this title.

9 (b) A law enforcement agency may use an unmanned aircraft
10 ~~system, or contract for the use of an unmanned aircraft system,~~
11 ~~system~~ if it has a reasonable expectation that the unmanned aircraft
12 system will collect evidence relating to criminal activity and if it
13 has obtained a warrant based on probable cause pursuant to this
14 code.

15 (c) (1) A law enforcement agency, without obtaining a warrant,
16 may use an unmanned aircraft ~~system, or contract for the use of~~
17 ~~an unmanned aircraft system,~~ system in emergency situations if

1 *there is an imminent threat to life or of great bodily harm,*
2 *including, but not limited to, fires, hostage crises, “hot pursuit”*
3 *situations if reasonably necessary to prevent harm to law*
4 *enforcement officers or others, and search and rescue operations*
5 *on land or water.*

6 (2) A law enforcement agency, without obtaining a warrant,
7 may use an unmanned aircraft system, ~~or contract for the use of~~
8 ~~an unmanned aircraft system, to conduct traffic accident~~
9 ~~investigations system to assess the necessity of first responders in~~
10 ~~situations relating to traffic accidents or to inspect state parks for~~
11 ~~illegal vegetation.~~

12 (d) (1) Except as otherwise provided in paragraph (2), a law
13 enforcement agency may use an unmanned aircraft system, ~~or~~
14 ~~contract for the use of an unmanned aircraft system, system~~ to
15 block, interfere with, or otherwise control communication or data
16 signals of electronic devices only if it has obtained an order of a
17 court pursuant to Section 2518 of Title 18 of the United States
18 Code, signed by a judicial officer obtained prior to the interruption
19 and consistent with the following:

20 (A) The order shall include all of the following:

21 (i) That probable cause exists that the service is being or will
22 be used for an unlawful purpose or to assist in a violation of the
23 law.

24 (ii) That absent immediate and summary action to interrupt
25 communications service, serious, direct, immediate, and
26 irreparable danger to public safety will result.

27 (iii) That the interruption of communications service is narrowly
28 tailored to prevent unlawful infringement of speech that is
29 protected by the First Amendment to the United States Constitution,
30 or Section 2 of Article I of the California Constitution, or a
31 violation of any other rights under federal or state law.

32 (B) The order shall clearly describe the specific communications
33 service to be interrupted with sufficient detail as to customer, cell
34 sector, central office, or geographical area affected, shall be
35 narrowly tailored to the specific circumstances under which the
36 order is made, and shall not interfere with more communication
37 than is necessary to achieve the purposes of the order.

38 (C) The order shall authorize an interruption of service only
39 for as long as is reasonably necessary and shall require that the
40 interruption cease once the danger that justified the interruption

1 *is abated and shall specify a process to immediately serve notice*
2 *on the communications service provider to cease the interruption.*

3 *(2) A law enforcement agency shall not use an unmanned*
4 *aircraft system to block, interfere with, or otherwise control*
5 *communication or data signals of electronic devices without a*
6 *court order except pursuant to this paragraph.*

7 *(A) If a government entity reasonably determines that an extreme*
8 *emergency situation exists that involves immediate danger of death*
9 *and there is insufficient time, with due diligence, to first obtain a*
10 *court order, the government entity may interrupt communications*
11 *service without first obtaining a court order as otherwise required*
12 *by this section, provided that the interruption meets the grounds*
13 *for issuance of a court order pursuant to paragraph (1) and that*
14 *the entity does all of the following:*

15 *(i) Apply for a court order without delay, and in no event, later*
16 *than two hours after commencement of an interruption of*
17 *communications service.*

18 *(ii) Provide to the provider of communications service involved*
19 *in the service interruption a statement of intent, signed by an*
20 *authorized official of the governmental entity, to apply for a court*
21 *order. The statement of intent shall clearly describe the extreme*
22 *emergency circumstances, and the specific communications service*
23 *to be interrupted with sufficient detail as to the customer, cell*
24 *sector, central office, or geographical area affected.*

25 *(iii) Provide conspicuous notice of the application for a court*
26 *order authorizing the communications service interruption on its*
27 *Internet Web site without delay, unless the circumstances that*
28 *justify interruption of communications service without first*
29 *obtaining a court order to justify not providing the notice.*

30 ~~*(2) The requirement for a court order pursuant to paragraph (1)*~~
31 ~~*shall not apply in circumstances involving an imminent threat to*~~
32 ~~*persons or property, provided that the unmanned aircraft system*~~
33 ~~*is deployed for a maximum duration not to exceed six hours.*~~

34 *(e) (1) A public agency other than a law enforcement agency*
35 *may use an unmanned aircraft system, or contract for the use of*
36 *an unmanned aircraft system, for the purposes of geological*
37 *inspections related to the mission of the agency or for the purpose*
38 *of detecting oil spills.*

39 *(2) CAL-FIRE may use unmanned aircraft systems, or contract*
40 *for the use of unmanned aircraft systems, for fire-related activities.*

1 (3) *Data collected pursuant to this subdivision shall not be*
2 *disseminated outside the collecting agency or provided to a law*
3 *enforcement agency unless the agency has obtained a warrant for*
4 *the data based upon probable cause pursuant to this code.*

5 14351. (a) The acquisition of an unmanned aircraft system,
6 or a contract for the use of an unmanned aircraft system, for
7 purposes authorized by this title by a local public agency shall be
8 subject to the specific approval of the applicable local public
9 agency's legislative body. The local legislative body, in approving
10 the acquisition or purchase, shall also adopt policies governing the
11 use and deployment of the unmanned aircraft system, consistent
12 with this title.

13 (b) A state agency that uses an unmanned aircraft system, or
14 contracts for the use of an unmanned aircraft system, shall provide,
15 no later than January 1 of each year, an annual report to the
16 Governor that includes, but is not limited to, the agency's
17 acquisitions, purchases, rentals, or leases of unmanned aircraft
18 systems *and a description of each instance in which the unmanned*
19 *aircraft system was deployed, including the purpose of the*
20 *deployment and whether a warrant was obtained.*

21 14352. A public agency that uses an unmanned aircraft system,
22 or contracts for the use of an unmanned aircraft system, pursuant
23 to this title shall first provide reasonable notice to the public.
24 Reasonable notice shall, at a minimum, consist of a one-time
25 announcement regarding the agency's intent to deploy unmanned
26 aircraft system technology and a description of the technology's
27 capabilities.

28 14353. (a) ~~Images, footage, or data obtained by a public agency~~
29 ~~through the use of an unmanned aircraft system authorized pursuant~~
30 ~~to this title shall be permanently destroyed within 10 days, except~~
31 ~~to the extent required as evidence of a crime, part of an ongoing~~
32 ~~investigation of a crime, or for training purposes, or pursuant to~~
33 ~~an order of a court, or any entity contracting with a public agency,~~
34 *through the use of an unmanned aircraft system shall not be*
35 *disseminated outside the collecting agency, and shall not be used*
36 *for any purpose other than that for which it was collected. Images,*
37 *footage, or data obtained through the use of an unmanned aircraft*
38 *system shall be permanently destroyed within 10 days, except if*
39 *retained for training purposes or if a warrant authorized collection*
40 *of or access to the images, footage, or data.*

1 (b) (1) Images, footage, or data retained by a public agency
2 shall be open to public inspection, unless expressly exempt by law.

3 (2) Images, footage, or data retained for training purposes shall
4 be used only for the education and instruction of an agency's
5 employees *in matters related to the mission of the agency* and for
6 no other purpose.

7 ~~14354. (a) (1) A person or entity, other than a public agency~~
8 ~~subject to Section 14350 or a person or entity under contract to a~~
9 ~~public agency, for the purpose of that contract, shall not use an~~
10 ~~unmanned aircraft system, or contract for the use of an unmanned~~
11 ~~aircraft system, for the purpose of surveillance of another person~~
12 ~~without that person's consent.~~

13 ~~(2)–~~

14 ~~14354.~~ A law enforcement agency shall only view data gathered
15 by a person or entity, ~~other than a public agency subject to Section~~
16 ~~14350, entity using an unmanned aircraft system,~~ or a person under
17 contract to a public agency, if the law enforcement agency has
18 obtained a warrant or has the permission or approval of that person
19 or entity, or person under contract to a public agency, provided
20 that the data gathered by the person or entity was lawfully obtained.

21 ~~(b) A person who is subject to surveillance without consent may~~
22 ~~seek and obtain an injunction prohibiting the use of images,~~
23 ~~footage, or data related to the person that was obtained through~~
24 ~~the surveillance. The person shall also be awarded liquidated~~
25 ~~damages of five thousand dollars (\$5,000) for each day of~~
26 ~~surveillance and any actual damages in excess of that amount.~~

27 14354.5. A person or entity, including a public agency subject
28 to Section 14350 or a person or entity under contract to a public
29 agency, for the purpose of that contract, shall not equip or arm an
30 unmanned aircraft system with a weapon or other device that may
31 be carried by or launched from an unmanned aircraft system and
32 that may cause bodily injury or death, or damage to, or the
33 destruction of, real or personal property.

34 ~~14354.7. The restrictions on the use of an unmanned aircraft~~
35 ~~system by a law enforcement agency shall apply to any person,~~
36 ~~entity, or public agency that uses, operates, or contracts for an~~
37 ~~unmanned aircraft system.~~

38 14355. (a) Nothing in this title is intended to conflict with or
39 supersede federal law, including rules and regulations of the
40 Federal Aviation Administration.

(b) Nothing in this title prohibits a local agency from adopting more restrictive policies on the use of unmanned aircraft systems for the protection of a person's privacy.

14356. As used in this title, "unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links and the components that control the unmanned aircraft, that are required for the pilot in command to operate safely and efficiently in the national airspace system.

~~14357. As used in this title, "surveillance" means the monitoring of persons, places, or events by any means of electronic technology, including, but not limited to, interception, overt or covert observations, photography, or the use of any tracking device.~~

14357. The surveillance restrictions on electronic devices pursuant to Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 shall apply to unmanned aircraft systems.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.